

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
APR 21 2006

[Signature]
CLERK

CHERYL A. BAKER,

Plaintiff,

-VS-

JO ANNE B. BARNHART,
Commissioner of Social Security
Administration,

Defendant.

CIV. 06-4061

ORDER

Plaintiff Cheryl A. Baker, represented by attorney Steven R. Pfeiffer, filed a Complaint under 42 U.S.C. §§ 405(g) and 1383(c)(3) and an Application to Proceed Without Prepayment of Fees and Affidavit (Docs. 1 and 3). The Court must initially decide on the basis of the complaint whether to grant leave to proceed in forma pauperis under 28 U.S.C. § 1915, before issuance and service of process. Gentile v. Missouri Dept. of Correction and Human Serv., 986 F.2d 214, 217 (8th Cir. 1993).

Having reviewed plaintiff's financial declaration, the Court finds that plaintiff satisfies the requirements of Section 1915(a). The Court must next determine whether the claims in the complaint are frivolous or malicious under Section 1915(d), and if so, the Court must dismiss the complaint. Id. If the claims are not frivolous or malicious, the Court should grant in forma pauperis status and order issuance and service of process. Id.

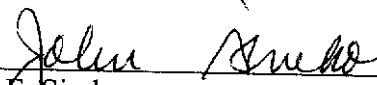
Plaintiff requests review of the determination by the Commissioner of Social Security denying plaintiff's application for Social Security Disability and Supplemental Security Income disability benefits for lack of disability. Plaintiff's claims are not frivolous or malicious. Accordingly, it is hereby

ORDERED that Plaintiff's Motion to Proceed Without Prepayment of Fees and Affidavit (Doc. 3) is GRANTED, as follows:

1. Plaintiff shall make an initial partial fee payment for docketing and filing fees in the amount of \$25.00 to the clerk of this court on or before May 20, 2006.
2. Plaintiff shall pay \$25.00 per month thereafter by the 20th of each month to the Clerk of the United States District Court until the balance of the docketing and filing fees is paid in full.
3. The United States Marshal shall serve a copy of the complaint, summons, and this Order on the defendants as directed by the plaintiff. All costs of service shall be advanced by the United States.

Dated this 21st day of April, 2006.

BY THE COURT:



John E. Simko
United States Magistrate Judge

ATTEST:
JOSEPH HAAS, Clerk

By Sherry Margulies, Deputy